

# Wine Michigan

*The State Association of Michigan Wineries*

10844 East Revold Road  
Suttons Bay, MI 49682

231.271.4970 ext. 114  
231.271-6534 Fax

## To Michigan Legislators

### The Best Choice for Direct Shipment of Wine

WineMichigan is the trade association of Michigan wine producers representing 85% of Michigan wine production.

We agree with the Michigan Beer and Wine Wholesalers Association (MBWWA) that the Supreme Court was sharply divided on the issue of state regulation, but wish to point out that the Court was clear on the issue that states cannot discriminate in their treatment between wineries in-state and out-of-state. WineMichigan joined as an intervener in the Supreme Court case with winery associations, farm bureaus, and consumer groups from numerous states objecting to Michigan's discriminatory regulations governing direct shipments as they effectively prohibited us from shipping to consumers in other states.

We agree with the MBWWA that the State must now decide how to remedy that discrimination, but we do not agree that the State's only rational legislative response is to eliminate the ability of in-state wine producers to ship direct to consumers in Michigan. In fact, that is exactly the opposite of a rational response and is the worst choice the Legislature could make.

The **Best Choice** is simply to extend the present accountable and regulated system for direct shipments that the Legislature has in place for Michigan wineries to out-of-state wineries.

#### The Best Choice

- would comply fully with the Court's decision concerning discrimination,
- would place the regulation of direct shipping within the jurisdiction of the State,
- would continue to serve Michigan consumers,
- would eliminate any justification by shippers or consumers for unregulated and unaccountable direct sales,
- would protect small Michigan wineries from economic ruin giving them instead an opportunity to grow in other states, and
- would bring additional tax revenue to the State.

The **Best Choice** recognizes that there is a "David and Goliath" difference between a handful of in-state producers and a handful of in-state wholesalers. Michigan wineries are small, family-owned, and entrepreneurial but struggling businesses in a very competitive marketplace. Michigan wholesalers are large, corporate, wealthy and powerful businesses operating in a virtual monopoly position in the same marketplace. The imbalance between the two tiers is best illustrated by the size of the MBWWA PAC and by the effectiveness of the efforts of MBWWA's lobbying in this Legislature. Michigan wine producers have few resources for lobbying other than their personal involvement and have to make sacrifices at their businesses even to appear here today while this is home turf for our wholesaler brethren.

The **Best Choice** suggests that you "follow the money." If Michigan wineries lose the right to ship directly to Michigan consumers, we lose money from wine club sales, sales of unique and distinctive items not in distribution, and in some cases, the only business we do outside of our own tasting rooms. Michigan winery direct sales range from 8-10% of sales for our larger wineries to 25-30% of sales for our smaller wineries. This is the margin between profit and loss for our members. No new winery could become established without direct sales rights.

If out-of-state wineries are allowed to join Michigan wineries in shipping to Michigan consumers even the most optimistic estimate for total direct shipments would be 1% of total wine consumption in Michigan. The worst choice for the Legislature would be to kill small business and to deny consumer choice in order to give MBWWA that extra 1% sales on top of their existing monopoly.

The **Best Choice** for the Legislature is to support Michigan wineries.

- We are small family businesses.
- We do not grow subsidized crops. The up-front investments in land, trellising, vines, fruit, wineries, tasting rooms, and marketing are all from personal funds.
- We are located in rural counties that need our employment and investment.
- We are one of the few agricultural sectors that are growing in our state. That growth is building the reputation of Michigan products.
- We are value-added agricultural business adding over \$5.00 of value to farm-gate cost of grapes.
- We are a major contributor to tourism in this state.
- We return millions of dollars of small business taxes, property taxes, sales and excise taxes to the state and our local communities.

I will leave with you today an Economic Impact study from the Michigan Grape and Wine Industry Council proving these points. We built our businesses on the right to direct ship. If you eliminate this right you bring our industry to a screeching halt.

The **Best Choice** is to recognize that the Michigan Legislature already has very effective regulations in place to control the sale of wines directly to Michigan consumers. Both Michigan wineries and Michigan consumers follow these regulations. The Michigan Liquor Control Commission (MLCC) will confirm that there have been no problems of underage access or sales and excise tax avoidance.

If an out-of-state winery wants to ship directly to Michigan consumers, it should follow the same rules that are in place today for Michigan wineries. This can be accomplished by enacting a limited direct shipment bill requiring out-of-state wineries

- to obtain a permit from the State,
- to submit copies of their federal and state licenses where they produce wine,
- to agree to comply with all Michigan rules governing shipping and underage access,
- to remit to the State all Michigan sales and excise taxes, and
- to maintain records for audit.

I am leaving with you today information from WineAmerica, our national trade organization, on how other states, including the largest wine producing states, have allowed direct shipping from out-of-state wineries. Michigan has the opportunity to demonstrate that it can join the most forward thinking states to support its wine industry.

The **Really Best Choice** is to recognize that these are not just discrimination, winery growth, or wholesaler business issues. This is a **consumer** issue first and foremost. Michigan consumers have clearly demonstrated that they want and expect to be able to get the wine they discovered when traveling or visiting a tasting room away from their home, once they return home. I have in my hand over 1,000 signatures from Michigan consumers who have signed petitions during the slower winter months in our tasting rooms asking for limited direct shipment.

Michigan consumers fully understand that wine is alcohol and is therefore a controlled item. They are willing to submit age identification at both time of ordering and receiving, wait for two weeks, pay a premium for high cost delivery services, and pay excise and sales taxes. In fact, the control procedures in place are actually more strict than normal retail sales because there is both a face to face transaction between the delivery man and the consumer and a record including age identification maintained for audit. We fully agree with and endorse the objectives of the MBWWA-funded Coalition for a Safe and Responsible Michigan to prevent uncontrolled access to wine. We attempted to join the Coalition since we practice controlled shipping, but we were refused membership.

Michigan consumers ask for direct shipping for only a small portion of the wines they consume, but when they want that special wine they will go through the effort involved. If you do not enable them to do the same thing they do now with us, you simply encourage them to place orders that are unaccountable and uncontrollable. Unfortunately, there is ample experience to suggest that direct shipping won't stop if the Legislature prohibits it, any more than prohibition stopped alcohol consumption.

We are asking the Legislature to enact a limited direct shipping bill. That will be a win for everyone, even for MBWWA members who would no longer have to defend themselves against their detractors who say they will not help small wineries, that they kill small brands, that they deny consumer access. Michigan wholesalers are not our enemies. In fact, many Michigan wineries use the wholesaler network, and wholesalers will continue to enjoy the fruits of their investments as they service large brands and large wineries. Their bonus will be when direct shipping reports indicate a wine has enough volume to make distribution an option.

Michigan wineries will do their part to make direct shipping happen. We have offered to compromise with MBWWA on both the maximum personal allowance and total winery limit on all direct shipments to Michigan.

There is a real opportunity today for the Legislature to make the **Best Choice** for all their constituents, not just for a few, by enacting a limited direct shipment bill for wines.

Donald Coe  
WineMichigan  
[Dcoe@winemichigan.org](mailto:Dcoe@winemichigan.org)  
[www.WineMichigan.org](http://www.WineMichigan.org)